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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,654	11/14/2006	Robert W. Insalaco	HMI P1198US1	5821
37190 7590 11/14/2007 VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP 333 BRIDGE STREET, NW P.O. BOX 352 GRAND RAPIDS, MI 49501-0352			EXAMINER CHAMBERS, TRAVIS SLOAN	
			ART UNIT 2833	PAPER NUMBER
			MAIL DATE 11/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.		Applicant(s)	
	10/526,654		INSALACO ET AL.	
	Examiner		Art Unit	
	Travis Chambers		2833	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Resp.to Elect./Restr. dated 8/13/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 12-14, 17-25, 27, 28 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) 5-11, 15, 16, 26, 29-37 and 41-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12-14, 17-25, 27, 28 and 38-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/20/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

- ☐ *Applicant's election of Species 1 (figures 1-16) in the reply filed in **Requirement for Restriction/Election** dated 7/13/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).*
- ☐ *Claim(s) 5-11, 15, 16, 26, 29-37 and 41-53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a non-elected invention, there being no allowable generic or linking claim.*
- ☐ *The restriction is still deemed proper and is therefore made FINAL*

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 12, 13, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Toms et al. (6133845).

In reference to claim 1, Toms teaches at least one primary track (55, 56 ; figure 2) having an elongated configuration; electrical energizing means (5,101 ; figure 7) coupled to the primary track (55, 56), for providing electrical power signals along the elongated configuration; the utilitarian elements comprise a set of vertically disposed partitions (47 ; figure 1); partition connecting means (in between 47) positioned along the track for removably and vertically supporting the partitions (47) along the elongated configuration; the utilitarian elements further comprise a set of electrically energized devices (connected through 12 ; figure 2); electrical connection means (37 ; figure 2) positioned along the track (55,56) for interconnecting the electrically energized devices (connected through 12) to the electrical energizing means; and the partition connecting means and the electrical connection means (5,101) are coupled to the track (55,56), and to the vertically disposed partitions and electrically energized devices (connected through 12), respectively, so as to facilitate reconfiguration and relocation of the utilitarian elements as required by users of the commercial interior.

In reference to claim 2, Toms teaches in that the electrical energizing means (5,101) is structured so as to provide the electrical power signals substantially along a continuum of the elongated configuration.

In reference to claim 3, Toms teaches the rail system further comprises communication means (connected through to 26 ; figure 2) coupled to the primary track (55,56), for receiving and transmitting communication signals along the elongated configuration.

In reference to claim 4, Toms teaches the communication means (connected through to 26 ; figure 2) is structured so as to provide reception and transmission of the communication signals substantially along a continuum of the elongated configuration.

In reference to claim 12, Toms teaches the partition connection means (in between 47) and the electrical connection means (5,101) are structured so that at least certain of the utilitarian elements are manually releasable from the partition connection means (released from 69 ; figure 5) and the electrical connection means (5,101).

In reference to claim 13, Toms teaches the rail system further comprises a plurality of primary tracks (55,56), with at least a first set (pertaining to 55) of the plurality of primary tracks extending along a single axis, with each of the first set (pertaining to 55) of primary tracks interconnected to adjacent ones of the first set (pertaining to 55) of the primary tracks.

In reference to claim 17, Toms teaches the communication means (connected through to 26) is located within the primary track (55,56), the electrical energizing means (5,101) is located within the primary track (55,56), and the electrical energizing means (5, 101) and the communication means (connected through to 26) are physically and electrically isolated from one another.

In reference to claim 18, Toms teaches the rail system further comprises an enclosed raceway (70 ; figure 5) electrically isolated from the electrical energizing means (5, 101) and adapted to carry high voltage electrical cables or wires along the elongated configuration.

Claims 1, 22, 23 and 28 are rejected under 35 U.S.C. 102(b) as being Drury (5618192).

In reference to claim 1, Drury teaches at least one primary track (178 ; figure 28) having an elongated configuration; electrical energizing means (171 ; figure 28) coupled to the primary track (178), for providing electrical power signals along the elongated configuration; the utilitarian elements comprise a set of vertically disposed partitions (182 ; figure 28); partition connecting means (between 178 and 182 ; figure 28) positioned along the track for removably and vertically supporting the partitions (182) along the elongated configuration; the utilitarian elements further comprise a set of electrically energized devices (connected through 153 ; figure 29); electrical connection means (153 ; figure 29) positioned along the track (178) for interconnecting the electrically energized devices (connected through 153) to the electrical energizing means (171); and the partition connecting means and the electrical connection means (153) are coupled to the track (178), and to the vertically disposed partitions and electrically energized devices (connected through 153), respectively, so as to facilitate reconfiguration and relocation of the utilitarian elements as required by users of the commercial interior.

In particular reference to the recitations "for removably and vertically supporting", this is seen to be for the intended use of the claimed structure and are given little patentable weight. Further, the recitation is not seen to claim any structure that prevents the reference from being used for the same purpose as the intended use recitations of the claim.

In reference to claim 22, Drury teaches the primary track (178) comprises a back half assembly (near lead line 181) forming a part of the elongated configuration; the primary track (178) further comprises a front half assembly (177 ; figure 28) forming a part of the elongated configuration, the front (177) and back half (near lead line 181) assemblies being manufactured as physically separate elements, and when mated together form a part of the primary track (178) with a lower special (near lead line 176) area therewithin; the electrical energizing means comprises elongated electrical power buses adapted to be mounted within the lower spacial area (near lead line 176) formed by the back half (near lead line 181) and the front half (177) assemblies; and the manufacture of the front and the back half assemblies as physically separate elements functions so as to permit positioning of the elongated electrical power buses (housed in 27 ; figure 11) within the lower spatial area prior to the back (near lead line 181) and the front (177) half assemblies being coupled together, thereby permitting the elongated buses (housed in 27) to be positioned within the spatial area without requiring the elongated buses to be slid through an end of the primary track (178) into the lower spatial area.

In reference to claim 23, Drury teaches the primary track (178) comprises a back half (near lead line 181) assembly forming a part of the elongated configuration; the primary track (178) further comprises a front half (177) assembly forming a part of the elongated configuration, the front (177) and back half (near lead line 181) assemblies being manufactured as physically separate elements, and when mated together form a part of the primary track (178) with a lower spacial area therewithin; the rail system

further comprise elongated low voltage, DC or communication buses adapted to be mounted within the lower spacial area (near lead line 176) formed by the back half (near lead line 181) and the front (177) half assemblies; and the manufacture of the front and the back half assemblies as physically separate elements functions so as permit positioning of the low voltage, DC or communication buses (housed in 27 ; figure 11) within the lower spacial area prior to the back (near lead line 181) and the front (177) half assemblies being coupled together, thereby permitting the elongated low voltage, DC or. communication buses to be positioned within the spatial area without requiring the elongated buses to be slid through an end of the primary track (178) into the lower special area.

In reference to claim 28, Drury teaches the primary track (178) comprises an elongated back half assembly (near lead line 181) having a plurality of back half sections (section apart of near lead line 181), each of the sections having a length X; the primary track (178) further comprises an elongated front half (177) assembly having a plurality of front half sections (section apart of 177), each of the front half sections (section apart of 177) having a length X; the back half sections and the front half sections are interconnected together, so as to form a substantial portion of the primary track (178); the interconnection of the back half sections (section apart of near lead line 181) and the front half sections occurs (section apart of 177) with an end of each of the back half sections positioned substantially equidistant opposing ends of a corresponding one of the front half sections (section apart of 177), and an opposing end of each of the back half sections (section apart of near lead line 181) being positioned

substantially equidistant opposing ends of an adjacent one of the front half sections (section apart of 177); and the back (section apart of near lead line 181) and front (section apart of 177) sections are further interconnected together so that an end of each of the front half sections (section apart of 177) is positioned substantially equidistant opposing ends of a corresponding one of the back half sections (section apart of near lead line 181), and an opposing end of each of the front half sections (section apart of 177) is positioned substantially equidistant opposing ends of an adjacent one of the back half sections (section apart of near lead line 181).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 19-21, 38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toms et al. (6133845) in view of Drury (5618192).

In reference to claim 14, Toms shows substantially the invention as claimed.

However Toms does not teach the electrical energizing means comprises a set of electrical buses, positioned within the primary track, and extending along the elongated configuration.

Drury teaches the electrical energizing means comprises a set of electrical buses, positioned within the primary track, and extending along the elongated configuration.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury to improve the invention of Toms.

One skilled in the art would have been motivated to use the teachings of Drury because it improves the ability to better adjust the access to the electrical energizing means by the user.

In reference to claim 19, Toms shows substantially the invention as claimed.

However Toms does not teach the rail system further comprises a cable tray removably mounted at an upper portion of the primary track, and adapted to carry power cables or communication cables.

Drury teaches the rail system further comprises a cable tray (61 ; figure 13) removably mounted at an upper portion of the primary track (37 ; figure 13), and adapted to carry power cables or communication cables (near lead line 65 ; figure 14).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury to improve the invention of Toms.

One skilled in the art would have been motivated to use the teachings of Drury because it provides easier access to the inside of the track to repair a damaged cable.

In reference to claim 20, Toms shows substantially the invention as claimed.

However Toms does not teach a support means coupled to upper portions of the primary tracks and to a building structure of the commercial interior, for releasably supporting the primary tracks from the building structure.

Drury teaches a support means (between lead line 178 and 182 ; figure 28) coupled to upper portions (178 ; figure 28) of the primary tracks (178 ; figure 28) and to a building structure of the commercial interior, for releasably supporting the primary tracks (178) from the building structure.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury to improve the invention of Toms.

One skill in the art would have been motivated to use the teachings of Drury based on aesthetic/environmental requirements/preference that are driven by a desire to increase market share.

In reference to claim 21, Toms shows substantially the invention as claimed.

However Toms does not teach the support means comprises means for adjusting the distance of a plane of the primary tracks from a floor of the building structure.

Drury teaches the support means (between lead line 178 and 182 ; figure 28) comprises means for adjusting (situating 178 to be exposed a certain distance from the building structure. Figure 28 shows 178 aligned with 182 while Figure 29 shows 178 exposed from 182) the distance of a plane of the primary tracks (178) from a floor of the building structure.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury to improve the invention of Toms.

One skill in the art would have been motivated to use the teachings of Drury based on aesthetic/environmental requirements/preference that are driven by a desire to increase market share.

In reference to claim 38, Toms shows substantially the invention as claimed.

However Toms does not teach the rail system further comprises connector means for releasably interconnecting adjacent ones of the primary tracks, so that the connected primary tracks are maintained in a longitudinal configuration.

Drury teaches the rail system further comprises connector means (11 ; figure 16) for releasably interconnecting adjacent ones of the primary tracks (8 ; figure 7), so that the connected primary tracks (8) are maintained in a longitudinal configuration.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury to improve the invention of Toms .

One skilled in the art would have been motivated to use the teachings of Drury because it makes it easier to replace the connector means it is damage or its receptacle openings are obstructed.

In reference to claim 40, Toms shows substantially the invention as claimed.

However Toms does not teach a power connector adapted to be releasably and electrically coupled to the electrical energizing means along a plurality of positions of the primary track; and the power connector comprises communication connection means for releasably and electrically coupling to the communication means for providing the communication signals to certain of the utilitarian elements.

Drury teaches a power connector (11 ; figure 6) adapted to be releasably and electrically coupled to the electrical energizing means (30 ; figure 11) along a plurality of positions of the primary track (8 ; figure 7); and the power connector (11) comprises communication connection means (which 11 can be adapted for a communication purpose for a communication connection Col. 6 Inss 24-30) for releasably and electrically coupling to the communication means for providing the communication signals to certain of the utilitarian elements.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury to improve the invention of Toms.

One skill in the art would have been motivated to use the teachings of Drury based on aesthetic/environmental requirements/preference that are driven by a desire to increase market share.

Claims 24, 25 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drury (5618192) figure 28 in view of Drury (5618192), figures 13 and 14.

In reference to claim 24, Drury shows substantially the invention as claimed.

However Drury does not teach the primary track (178) further comprises an elongated cover (61 ; figure 13), the cover being adapted to be coupled to the back half assembly and the front half assembly, so as to form an upper raceway within the primary track.

Drury in figures 13 and 14 teaches the primary track (37 ; figure 13) further comprises an elongated cover (61), the cover being adapted to be coupled to the back

half assembly (near lead line 62 ; figure 13) and the front half (near lead line 63 ; figure 13) assembly, so as to form an upper raceway with in the primary track (37).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury in figures 13 and 14 to improve the invention of Drury (figure 28).

One skill in the art would have been motivated to use the teachings of Drury in figure 13 based on aesthetic/environmental requirements/preference that are driven by a desire to increase market share.

In reference to claim 25, Drury shows substantially the invention as claimed.

However Drury does not teach the cover comprises apertures through which electrical means may be extended so as to electrically interconnect the electrical means to electrical cables or wires extending through the upper raceway.

Drury in figures 13 and 14 teaches the cover (61) comprises apertures (64 ; figure 13) through which electrical means (through 60 ; figure 14) may be extended so as to electrically interconnect the electrical means (through 60) to electrical cables or wires extending through the upper raceway.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury in figures 13 and 14 to improve the invention of Drury (figure 28).

One skill in the art would have been motivated to use the teachings of Drury in figure 13 based on aesthetic/environmental requirements/preference that are driven by a desire to increase market share.

In reference to claim 39, Drury shows substantially the invention as claimed.

However Drury does not teach the primary track forms a substantially enclosed upper raceway through which high voltage electrical cables may be extended; and the primary track comprises a cover assembly having knock-out apertures spaced along the length of the cover assembly, so that power taps provided along the length of the high voltage cables within the upper raceway.

Drury in figures 13 and 14 teach the primary track (37 ; figure 13) forms a substantially enclosed upper raceway through which high voltage electrical cables (near lead line 65 ; figure 14) may be extended; and the primary track (37) comprises a cover assembly (61 ; figure 13) having knock-out apertures (64) spaced along the length of the cover assembly (61), so that power taps (60) provided along the length of the high voltage cables within the upper raceway.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use the teaching of Drury in figures 13 and 14 to improve the invention of Drury (figure 28).

One skill in the art would have been motivated to use the teachings of Drury in figure 13 based on aesthetic/environmental requirements/preference that are driven by a desire to increase market share.

In reference to "knock out apertures", this is seen to be a method of forming. The method of forming is not germane to the issue of patentability of the device itself. Therefore this limitation has not been given patentable weight.

Allowable Subject Matter

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: (Claim 27) The prior art does not show the unique structure of the elongated sections are staggered so that ends of the first set of elongated sections are positioned intermediate ends of the second set of elongated sections. This structure, in combination with all the other elements of the claim is not seen to be anticipated by the prior art and the examiner knows of no permissible motivation to combine the prior art such that the subject matter as a whole would have been obvious at the time the invention was made.

If the application becomes allowable, any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowable Subject Matter".

Conclusion

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The prior listed on PTO form 892 that is made of record is considered pertinent to applicant's disclosure because it shows the state of the art with respect to applicant's claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis Chambers whose telephone number is 571-272-6813. The examiner can normally be reached on Monday-Friday 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley can be reached on 571-272-2001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Travis Chambers
TC
10/25/07


THO D. TA
PRIMARY EXAMINER

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